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JUN 08 2006

OFFICE OF PETITIONS

In re Application of :
Tolles et al. :
Application No. 09/507,172 : LETTER REGARDING
Filed: February 18, 2000 : PATENT TERM ADJUSTMENT
Atty Docket No. 3600.0881-D5 :

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT AT ALLOWANCE PURSUANT TO COMMENT 43 OF THE FINAL RULE" filed December 15, 2005. Applicants disclose that the application is not entitled to patent term extension as shown on the Determination mailed February 7, 2005, but by virtue of the filing of a continued prosecution application (CPA) on February 25, 2003 is entitled to patent term adjustment.

The request for correction of the initial determination of patent term adjustment (PTA) is *granted to the extent indicated herein*. The determination of PTA at the time of the mailing of the notice of allowance is ZERO (0) days (including 63 days of Office delay and 63 days of applicant delay).

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is ZERO (0) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

A review of the prosecution history of this case reveals that a CPA was filed on February 25, 2003. However, the paper was not entered into the record as a CPA. This error has been corrected.

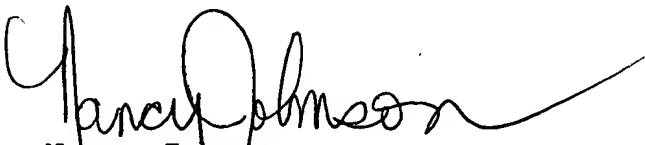
Further, applicants are correct that this application became eligible for patent term adjustment for examination delay by virtue of the filing of the CPA. Entries of periods of adjustment of 63 days and of periods of reduction of 63 days as of the mailing of the notice of allowance have been entered in the record. Specifically, 63 days was entered for Office delay in taking in excess of four months to mail a Notice of Allowance mailed February 7, 2005, in response to the Request for Continued Examination (RCE) filed August 6, 2004. See 37 CFR §§ 1.702(a)(2) and 1.703(a)(3). Periods of reduction of 2 days each were entered for Applicant delay in taking in excess of three months to file proper responses (RCEs filed August 6, 2004 and May 9, 2005) to the Notice of Allowances mailed May 4, 2004 and February 7, 2005 respectively. See 37 CFR § 1.704(b). In addition, a period of reduction of 59 days was entered for applicant filing on April 1, 2004 a supplemental response, not requested by the examiner. See 37 CFR § 1.704(c)(8).

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is ZERO (0) days (including 63 days of Office delay and 63 days of Applicant delay).

Given the correction in the record as to eligibility, at the time of issuance of the patent, the PTA calculations should be processed as normal and the patent should issue with a revised patent term adjustment based on any periods of adjustment or reduction after the mailing of the Notice of Allowance mailed September 21, 2005.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded to the Office of Patent Publication for issuance of the application.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.


Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

Day : Wednesday

PALM INTRANET

Date: 6/7/2006

Time: 18:08:39

PTA Calculations for Application: 09/507172

Application Filing Date:	02/18/2000	PTO Delay (PTO):	0
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
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124	06/05/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		2	
123	06/05/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	63		
122	06/05/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		2	
105	09/21/2005	MAIL NOTICE OF ALLOWANCE			
104	09/21/2005	MAIL EXAMINER'S AMENDMENT			
103	09/19/2005	ISSUE REVISION COMPLETED			
102	09/19/2005	EXAMINER'S AMENDMENT COMMUNICATION			
101	09/19/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
100	09/19/2005	NOTICE OF ALLOWABILITY			
99	09/09/2005	DATE FORWARDED TO EXAMINER			
98	09/06/2005	RESPONSE AFTER NON-FINAL ACTION			
97	06/06/2005	MAIL NON-FINAL REJECTION			
96	06/01/2005	NON-FINAL REJECTION			
95	06/01/2005	DATE FORWARDED TO EXAMINER			
94	05/09/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)			
93	06/01/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
92	05/09/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
91	03/09/2005	CORRESPONDENCE ADDRESS CHANGE			
90	03/09/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
89	02/14/2005	EXPORT TO INITIAL DATA CAPTURE			
88	02/17/2005	RECEIPT INTO PUBS			
87	02/07/2005	MAIL NOTICE OF ALLOWANCE			

86	02/07/2005	MAIL EXAMINER'S AMENDMENT			
85	02/04/2005	EXAMINER'S AMENDMENT COMMUNICATION			
84	02/04/2005	ISSUE REVISION COMPLETED			
83	02/04/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
82	02/04/2005	NOTICE OF ALLOWABILITY			
81	08/06/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
80	01/19/2005	DATE FORWARDED TO EXAMINER			
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73	08/04/2004	RECEIPT INTO PUBS			
72	06/11/2004	RECEIPT INTO PUBS			
71	06/11/2004	RECEIPT INTO PUBS			
70	05/27/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
69	05/27/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
68	05/26/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
67	05/04/2004	MAIL NOTICE OF ALLOWANCE			
66	05/04/2004	MAIL FORMAL DRAWINGS REQUIRED			
65	05/04/2004	MAIL OATH OF DECLARATION REQUIRED			
64	05/03/2004	ISSUE REVISION COMPLETED			
63	05/03/2004	OATH OR DECLARATION REQUIRED			
62	05/03/2004	FORMAL DRAWINGS REQUIRED			
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60	05/03/2004	NOTICE OF ALLOWABILITY			
59	04/20/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
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55	04/20/2000	REFERENCE CAPTURE ON IDS			
54	03/03/2004	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			

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52.1	02/02/2004	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
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51	11/07/2003	MAIL NON-FINAL REJECTION			
50	11/07/2003	NON-FINAL REJECTION			
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44	10/09/2003	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
43	10/09/2003	CASE DOCKETED TO EXAMINER IN GAU			
42	10/07/2003	PETITION TO REVIVE APPLICATION - GRANTED			
41	02/25/2003	PETITION ENTERED			
40	06/18/2003	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
39	06/17/2003	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
38	05/27/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	02/25/2003	WORKFLOW - REQUEST FOR CPA - BEGIN			
36	02/05/2003	MAIL ABANDONMENT FOR FAILURE TO CORRECT DRAWINGS/OATH			
35	02/05/2003	ABANDONMENT FOR FAILURE TO CORRECT DRAWINGS/OATH/NONPUB REQUEST			
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33	12/17/2002	WORKFLOW - FILE SENT TO CONTRACTOR			
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30	12/03/2002	MAIL NOTICE OF ALLOWANCE			
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28	12/03/2002	MAIL OATH OF DECLARATION REQUIRED			
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21	09/23/2002	RESPONSE AFTER NON-FINAL ACTION			
20	09/23/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
19	05/09/2002	MAIL NON-FINAL REJECTION			
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17	05/06/2002	DATE FORWARDED TO EXAMINER			
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13	01/22/2002	PETITION ENTERED			
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9	02/15/2001	PRELIMINARY AMENDMENT			
8	09/05/2000	MISCELLANEOUS INCOMING LETTER			
7	04/20/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	11/14/2000	CASE DOCKETED TO EXAMINER IN GAU			
5	09/12/2000	APPLICATION IS NOW COMPLETE			
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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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